AN ABSTRACT OR THE LAWES OF NEW ENGLAND,

As they are now established.

LONDON,
Printed for *F. Coules*, and *W. Ley* at Paules Chain,
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AN ABSTRACT Of the Lawes of New ENGLAND.

CHAP. I.

Of Magistrates.

1 FIrst, All Magistrates are to be chosen.

First, By the free Burgesses. Deut.1.13.

Secondly, Out of the free Burgesses. 17.15.

Thirdly, Out of the ablest men and most approved Ex.18.21.
amongst them.

Fourthly, Out of the ranck of Noble men or Gentlemen among them, the best that God shall send into the Countrey, if Ier.30.21. they be qualified with gifts fit for Government, either eminent above others, or not inferiour to others. Eccl.10.17.

2 The Governor hath power with the Assistants to governe the whole Countrey, according to the Lawes established hereafter mentioned; He hath power of himselfe, and in his absence the Deputy Governor, to moderate all publike actions of the Common-wealth, as

First, To send out warrants for the calling of the generall Court. Iosh.24.1.

Secondly, To order and manacke all actions in the Court where he sitteth: as, to gather Suffrages and Voyces, and to pronounce Sentences according to the greater part of them.

3 The power of the Governor with the rest of the Counsellors, is

First, To consult and provide for the maintenance of the State and People. Num.11.4 to 16.

Secondly, To direct in all matters wherein Appeale is made to them from inferiour Courts. Ex.18.22. Deu. 17. 8,9.

Thirdly, To preserve Religion. Ex. 32.25,

2 Cor. 13. 1. 3 2 23. 45 6. Ex. 17. 9. Prov. 24, 5.

4 To oversee the Forts and Munition of the Countrey, and to take order for the protection of the Countrey from forraine invasion, or intestine sedition, as need shall require, with consent of the people to enterprise wars.

And because these great affaires of the State cannot be attended, nor administred, if they be after changed; therefore the Counsellors are to be chosen for life, unlesse they give just cause of removall, which if they do, than they to be removed by the Generall Court.

1 Kings 22. 6.

Ex. 18. 22. Deu. 1. 16. 17.

4 The power of the Governor, sitting with the Counsellors and Assistants, is to heare and determine all causes whether Civill or Criminall, which are brought before him through the whole Common-wealth: Yet reserving liberty of Appeale from him to the generall Court.

Deu. 16. 18

5 Every Town is to have Iudges within themselves, whose power shall be once in the month, or in three months at the furthest to heare and determine both Civill Causes and Pleas of lesse value, and crimes also, which are not capitall: Yet reserving liberty of Appeale to the Court of Governor and Assistants.

Deu. 16. 18 Ier. 26. 10. & 12.

6 For the better expedition and execution of Iustice, and of all affaires incident unto every Court. Every Court shall have certaine Officers, as a Secretary to inroll all the Acts of the Court; And besides Ministers of Iustice, to attach, and fetch, and set persons before the Magistrates; and also to execute the Sentence of the Court upon offenders: And for the same end, it shall be lawfull for the Governor

1 Sam. 20. 24. 25.

or any one or two of the Counsellors, or Assistants, or Iudges, to give warrant to an Officer, to fetch any delinquent before them, and to

Acts 5. 16. 27.

examine the cause, and if he be found culpable of that crime, to take order by surety or safe custody for his apparance at the Court.

And further for the same end, and to prevent the offenders lying long in prison, it shall be lawfull for the Governor, with one of the Counsell, or any two of the Assistants or Iudges, to see execution done upon any offenders for any crime that is not capitall, according to the Lawes established: Yet still reserving a liberty of Appeale from them to the Court, and from an Inferiour Court to an Higher Court.

CHAP.

CHAP. II.

Of the free Burgesses and free Inhabitants.

1 FIrſt, All the free Burgeſſes excepting ſuch as were admitted men before the eſtabliſhment of Churches in the Countrey, ſhall bee received and admitted out of the members of ſome or others of the Churches in the Countrey, ſuch Churches as are gathered or hereafter ſhall be gathered with the conſent of other Churches already eſtabliſhed in the Countrey, and ſuch members as are admitted by their own Church into the Lords-Table.

2 Theſe free Burgeſſes ſhall have power to chooſe in their owne Townes fit and able men out of themſelves, to be the ordinary Iudges of inferiour Cauſes, in their own Town, and againſt the approach of the Generall Court to chooſe two or three, as their Deputies and Committees, to joyne with the Governour and Aſſiſtants of the whole Countrey, to make up and conſtitute the Generall Court.

3 This Generall Court ſhall have power,

Firſt, By the Warrant of the Governor or deputy Governor, to aſſemble once every quarter or halfe a yeare or oftner, as the affaires of the Countrey ſhall require, and to ſit together till their affaires bee diſpatched.

2 To call the Governour and all the reſt of the publike Magiſtrates and Officers into place, and to call them alſo to accoumpt for the breach of any Laws eſtabliſhed, or other miſdemeanour, and to cenſure them as the quality of the fact may require.

Thirdly, To make and repeale Laws.

Fourthly, To diſpoſe of all Laws in the Countrey, and to aſſigne them to ſeverall Towns or perſons, as ſhall be thought requiſite.

Fifthly, To impoſe a levy of moneys, for the publike ſervice of the Common-wealth, as ſhall be thought requiſite for the proviſion and protection of the whole.

Sixthly, To heare and determine all cauſes, wherein appeale ſhall be made unto them, or which they ſhall ſee cauſe to aſſume, into their own cogniſance or judicature.

Seventhly, To aſſiſt the Governors and Counſellors in the maintenance

2 By

tenance of the purity and unity of Religion, and accordingly to set forward and uphold all such good causes as shall be thought fit, for that end, by the advice with consent of the Churches, and to represse the contrary.

Eighthly, In this generall Court nothing shall be concluded but with Common consent of the greater part of the Governors, or Assistants, together with the greater part of the Deputies of the Towns, unlesse it be in election of Officers, where the liberty of the people is to be preferred, or in judging matters of offence against the Law, wherein both parties are to stand to the direction of the Law.

Ninthly, All the householders of every Town, shalbe accompted as the free Inhabitants of the Countrey, and accordingly shall enjoy freedome of Commerce and Inhabitance of the Ilands, as the generall Court or the severall Townes wherein they dwell shall allot unto them, after they have taken an Oath, or given other security to be true and faithfull to the State, and subject to the good and wholesome Laws established in the Countrey by the generall Court.

Chap. III.

Of the protection and provision of the Countrey.

1 Firſt, A Law to be made (if it be not made already) for the trayning of all men in the Countrey fit to beare armes unto the exercise of military Discipline; and withall another Lawe to be made for the maintenance of military Officers and Forts.

2 Because fishing is the chiefe staple commodity of the Countrey, therefore all due encouragement to be given, unto such hands as shall set forwards the trade of fishing; and for that end a Law to be made, That whosoever shall apply themselves to set forward the trade of fishing, as Fisher-men, Marriners and Shipwrights, shall be allowed, man for man, or some or other of the Labourers of the Countrey, to plant and to reape for them, in the season of the yeare, at the publike charge of the Common-wealth, for the space of these seven yeares next ensuing; and such Labourers to be appointed and paid by the Treasurer of the Common-wealth.

3 Because no Common-wealth can maintaine either their authority at home, or their honour and power abroad, without a sufficient Treasury: a Law therefore to be made for the electing and furnishing

ing of the Treasury of the Common-wealth, which is to be supplyed and furnished.

1 By the yearely payment.

First, Of one penny, or halfe penny an Acre of Land to be occupied throughout the Countrey.

Land in common by a Towne to be paid for out of the Stocke or Treasury of the same Town.

Secondly, Of a penny for every beast, Horse or Cow.

Thirdly, Of some proportionable rate upon Marchants.

This rate to be greater or lesse as shall be thought fit.

2 By the payment of a barrell of Gun-powder, or such goods, or other munitions out of every ship, that bringeth forraine Commodities.

3 By fines and mulcts upon trespassers beasts.

4 A Treasurer to be chosen by the free Burgesses out of the Assistants, who shall receive and keep the Treasury and make disbursements out of it, according to the direction of the generall Court, or of the Governor or Counsellors, whereof they are to give an accompt at the generall Court.

It shall pertaine also to the Office of the Treasurer, to survey and oversee all the munitions of the Countrey, as Cannons, Culvering, Muskets, Powder, Match, Bullets, and to give accompt thereof to the Governor and Counsell.

5 A Treasury also or Magazin, or Storehouse to be erected, and furnished in every Town, as *Deut.* 14. 28. distinct from the Treasury of the Church, that provision of Corne and other necessaries, may be laid up at the best hand, for the relieve of such poore, as are not members of the Church; and that out of it such Officers may be maintained, as Captaines and such like, who do any publike service for the Town: But chiefly this Treasury will be requisite for the preserving of the livelyhood of each Town within it selfe.

That in case the Inheritance of the Lands belong to any Towne, come to be alienated from the Townesmen, which may unavoydably fall out: Yet a supply may be had and made to the livelyhood of the Town by a reasonable Rent-charge, upon such alienations laid by the common consent of the Land-owners and Townesmen, and to be paid unto the Treasury of the Town.

This Treasury to be supplyed.

1 First, By the yearely payment of some small rate upon Acres of Land.

2 By

2 By fines or amerciaments put upon trespassours beasts.

A Town Treasurer to be appointed for the oversight and ordering of this chosen out of the free Burgesses of the same Town, who is to dispose of things under his charge, according to the directions of the Iudges of the Towne, and to give accompt at the Townes Court to the Iudges and free Burgesses of the Town or to some elected by them.

Chap. IV.

Of the right of Inheritance.

1 1. Firſt, Forasmuch as the right of diſpoſals of the Inheritance of all Lands in the Countrey, lyeth in the Generall Court, whatſoever Lands are given and aſſigned by the Generall Court, to any Town or perſon ſhall belong and remaine as right of Inheritance to ſuch Townes and their ſucceſſors, and to ſuch perſons and to their heires and Aſſignes as their propriety for ever.

Whatſoever Lands belong to any Town, ſhall be given and aſſigned by the Town or by ſuch Officers therein, as they ſhall appoint unto any perſon, the ſame ſhall belong and remaine, unto ſuch perſon and his heires and aſſignes as his proper right for ever.

3 And in dividing of Lands to the ſeverall perſons in each Town, as regard is to be had partly to the number of the perſons in family: To the more aſſigning the greater allotment, to the fewer leſſe, and partly by the number of beaſts, by the which a man is fit to occupy the Land aſſigned to him, and ſubdue it: Eminent reſpect (in this caſe may be given to men of eminent quality and deſcent) in aſſigning unto them more large and honorable accommodations, in regard of their great diſburſements to publike charges.

Num.26. 53 54. Num 35.3.

4 Forasmuch as all Civill affaires are to be adminiſtred and ordered, ſo as may beſt conduce to the upholding and ſetting forward of the worſhip of God in Church fellowſhip. It is therefore ordered, that whereſoever the Lands of any mans Inheritance ſhall fall, yet no man ſhall ſet his dwelling houſe above the diſtance of halfe a mile or a mile at the furtheſt, from the meeting of the Congregation, where the Church doth uſually aſſemble for the worſhip of God.

5 In-

5 Inheritances are to defcend naturally to the next of kinne, according to the Law of Nature, delivered by God. Num. 27. 7. to 11.

6 If a man have more Sonnes than one, then a double portion to be aſſigned, and bequeathed to the eldeſt Son, according to the Law of Nature, unleſſe his own demerit do deprive him of the dignity of his Birth-right. Deu. 21. 17. 1 Chr. 5. 1.

7 The will of a Teſtatour, is to be approved, or diſallowed by the Court of Governours, and Aſſiſtants, or by the Court of Iudges in each Towne; yet not to be diſallowed by the Court of Governours, unleſſe it appeare either to be counterfeit or unequall, either againſt the Law of God, or againſt the publike weale, or againſt the due right of the Legatours.

8 As God in old time, in the Common-wealth of *Iſrael*, forbad the alienation of Lands from one Tribe to another, ſo to prevent the like inconvenience in the alienation of Lands, from one Towne to another it were requiſite to be ordered.

1 Firſt, that no free Burgeſſe, or free Inhabitant of any Town ſhall ſell the Land allotted to him in the Towne, (unleſſe the free Burgeſſe of the Towne give conſent unto ſuch ſale, or refuſe to give due price anſwerable to what other offer without fraud) but to ſome one or other of the free Burgeſſes, or free Inhabitants of the ſame Towne.

2 That if ſuch Lands be ſould to any others, the ſale ſhall be made with reſervation of ſuch a rent charge to be paid to the Town Stock, or Treaſury of the Towne, as either the former occupiers of the Land were wont to pay towards all the publike charges thereof; whether in Church or Town, or at leaſt after the rate of three ſhillings the acre or ſome ſuch like proportion, more or leſſe, as ſhall be thought fit.

3 That if any free Burgeſſes, or free Inhabitants of any Towne, or the heire of any of their Lands, ſhal remove their dwelling from one Towne to another, none of them ſhall carry away the whole benefit of the Lands which they poſſeſſed, from the Townes whence they remove: But if they ſhall keepe the right of Inheritance in their own hands, & not ſell it as before, then they ſhall reſerve a like proportion or Rent charge out of their Land, to be paid to the publike Treaſury of the Towne, as hath beene wont to be paid out of it to the publike charges of the Town and Church, or at leaſt after the rate of three or five ſhillings an Acre, as before.

4 That if the Inheritance of a free Burgeſſe, or free Inhabitants of any Town fal to his daughters, as it wil do for defect of heires males, that then if ſuch daughters doe not marry to ſome of the Inhabitants

of the same Towne where their Inheritance lyeth, nor sell their Inheritance to some of the same Towne as before; that then they reserve a like proportion of rent charge out of their Lands to be paid to the publike Treasury of the Towne, as hath beene wont to be paid out of them, to the publike charge of the Towne and Church; or at least, after the rate of three or five shillings an Acre, provided always that nothing be payed to the maintenance of the Church out of the Treasury of the Church or Towne, but by the free consent and direction of the free Burgesses of the Towne.

Chap. V.

Of Commerce.

1 First it shall be lawfull for the Governour with one or more of the Counsell, to appoint a reasonable rate of prizes upon all such commodities as are out of the Ships, to be bought and sould in the Countrey.

2 In trucking or trading with the *Indians* no man shall give them for any commodity of theirs, Silver or Gold, or any weapons of war, either Guns or Gunpowder, nor Sword, nor any other munition, which might come to be used against our selves.

3 To the intent that all oppression in buying and selling may be avoyded, it shall be lawfull for the Iudges in every Towne, with the consent of the free Burgesses to appoint certaine select men, to set reasonable rates upon all comodities, and proportionably to limmit the wages of workemen and labourers, and the rates agreed upon by them, and ratified by the Iudges, to bind all the Inhabitants of the Towne. The like course to be taken by the Governour, and Assistants, for the rating of prizes throughout the Countrey, and all to be confirmed if need be by the generall Court.

Lev. 19. 35. 36. Pro. 11. 1. and 16. 11. and 20. 10. Deu. 24 10 11, 12, 13. Exod. 22. 26, 27.

4 Iust waights and ballances to be kept betweene buyers and sellers, and for default thereof the profit so wickedly and corruptly gotten, with as much more added thereto, is to be forfeited to the publike Treasury of the Common-wealth.

5 If any borrow ought of his neighbour upon a pledge, the lender shall not make choyce of what pledge he will have, nor take such pledge as is of dayly necessary use unto the debtor, or if he do take it, he shall restore it againe the same day.

6 No

6 No increaſe to be taken of a poore brother or neighbour, for any thing lent unto him. Ex. 22.25. Lev. 25.36

7 If borrowed goods be loſt or hurt in the owners abſence, the borrower is to make them good, but in the owners preſence wherein he ſeeth his goods no other wiſe uſed than with his conſent, the borrower ſhall not make them good: If they were hired, the hire is to be paid and no more. 37. Ex. 22.14, 15.

CHAP. VI.

Of Treſpaſſes.

1 IF a man's Swine or any other beaſt, or a fire kindled, breake out into another mans field or corne, he ſhal make full reſtitution both of the dammage made by them, and of the loſſe of time, which others have had in carrying ſuch Swine or beaſts unto the owners, or to the fould. Ex. 22.5,6,

But if a man put his beaſts or Swine into anothers field, reſtitution is to be made of the beſt of his owne, though it were much better than that which were deſtroyed or hurt.

2 If a man kills another mans beaſt, or digge and open a pit, and leave it uncovered, and a beaſt fall into it; he that killed the beaſt, or the owner of the pit ſhall make reſtitution. Lev. 24.18 Ex 21.34.

3 If any man's beaſt kill the beaſt of another, the owner of the beaſt ſhall make reſtitution. Ex. 21.35

4 If a man's Oxe or other beaſt, gore or bite and kill a man or a woman, whether Child or of riper age, the beaſt ſhall be killed, and no benefit of the dead beaſt reſerved to the owner, but if the Oxe or beaſt were wont to puſh or bite in times paſt, and the owner hath beene tould it, and hath not kept him in; then both the Oxe or beaſt ſhall be forfeited and killed, and the owner alſo put to death, or fined to pay what the Iudges and the perſons dampnified ſhall lay on him. Ex. 21.28, 29, 30, 31.

5 If a man deliver goods to his neighbour to keepe, and they be ſaid to be loſt or ſtolne from him, the keeper of the goods ſhall be put to his oath touching his own innocency, which if he take, & no evidence appeare to the contrary, he ſhall be quit, but if he be found falſe or unfaithfull, he ſhall pay double unto his neighbour. Ex 22.11 1.

But if a man take hire for the goods committed to him, and they be ſtolne, the keeper ſhall make reſtitution: But if the beaſt ſo kept for hire dye or be hurt, or be driven away, no man ſeeing it, then

oath shall be taken of the keeper, that it was without his default, and it shall be accepted: but if the beast be torne in pieces, and a peece be brought for witnesse, it excuseth the keeper.

Chap. VII.

Of Crimes.

And first, of such as deserve capitall punishment, or cutting off from a mans people, whether by death or banishment.

Blasphemy. Lev. 24. 11 to 16.

1 First, Blasphemy which is a cursing of God by Atheisme or the like, to be punished with death.

Idolatry. Deu. 13. 10 15, 16.

2 Idolatry to be punished with death.

Witchcraft. Ex. 22. 18. 20. 27. Lev. 19 31.

3 Witchcraft which is fellowship by covenant with a familiar Spirit to be punished with death.

Consulters with Witches.

4 Consulters with Witches not to be tollerated, but either to be cut off by death, or by banishment.

Heresie. Zac. 13. 3.

5 Heresie which is the maintenance of some wicked errors, overthrowing the foundation of Christian Religion, which obstinacy if it be joyned with endeavour, to seduce others thereunto to be punished with death: because such an Hereticke no lesse than an Idolater seeketh to thrust the soules of men from the Lord their God.

False worship. Ex. 32. 27, 28

6 To worship God in a molten or graven Image, to be punished with death.

Scandalous livers. 1 Cor. 5. 5.

7 Such members of the Church, as doe wilfully reject to walke after due admonition, and conviction, the Churches establishment, and their christian admonition and censures, shall be cut off by banishment.

Revilers of Religion.

8 Whosoever shall revile the Religion and Worship of God, and the Government of the Church as it is now established, to be cut off by banishment.

Wilfull perjury.

9 Wilfull perjury, whether before the judgement seat or in private conference, to be punished with death.

Rash perjury.

10 Rash perjury whether in publike or in private, to be punished with banishment, just it is that such a mans name should be cut off from his people, who prophans so grosly the name of God before his people

Sabbath breakers. Num. 15. 32

11 Profaning of the Lords day, in a careless and scornefull neglect or contempt thereof to be punished with death.

12 To

12 To put in practice the betraying of the Countrey, or any principall sort therein to the hand of any forraigne State, *Spanish*, *French*, *Dutch*, or the like: contrary to the alleageance we ow, and professe to our Dread Soveraign Lord King *Charles*, His Heires and Successors; whilst he is pleased to protect us as his loyal subjects, to be punished with death. *Treason.*

13 Unreverend and dishonorable carriage to Magistrates, to be punished with banishment for a time, till they acknowledge their fault, and professe reformation. *Unreverend to Magistrates.* Num 12.1 14, 15.

14 Reviling of the Magistrates in highest rancke amongst us, to wit of the Governours and Counsell to be punished with death. *Reviling the Magistrate.* *Rebellion &c.* 1 King. 22, 8, 9. & 44.

15 Rebellion, Sedition, or Insurrection, by taking up armes against the present Government established in the Country to be punished with death. *Rebellious Children.* Deu. 21. 18, 19. 20.

16 Rebellious children whether they continue in riot or drunkennesse after due correction from their parents, or whether they curse or smite their Parents, to be put to death. Ex. 21. 15 Lev 20. 9.

17 Murther which is a wilfull man-slaughter, not in a mans necessary and just defence, nor casually committed, but out of hatred or cruelty, to be punished with death. *Murther.* Ex. 21. 12, 13. Num 35. 16, 17, 18. to 33.

18 Adultery which is the defiling of the marriage bed, to be punished with death. Defiling of a woman espoused, is a kind of Adultery, and punishable by death, of both parties; but if a woman be forced, then by the death of the man only. *Adultery.* Gen. 9. 6. Lev. 20 10 Deu. 22. 22, 23.

19 Incest, which is the defiling of any neer of kin, within the degrees prohibited in *Leviticus*, to be punished with death. Deu 24. 25 26.

20 Unnaturall filthinesse to be punished with death, whether Sodomy, which is carnall fellowship of man with man, or woman with woman. *Incest.* Lev. 20. 11, 12, 19. 0. *Sodomy.*

Or Buggery which is carnall fellowship of man or woman, with beasts or fowles, *Buggery.*

21 Pollution of a woman known to be in her flowers to be punished with death. *Pollution &c.* Lev. 20. 18.

22 Whordome of a maiden in her fathers house, kept secret till after her marriage with another, to be punished with death. 19. *Whordome.* Ex. 22. 16. Deu. 24 Y.

23 Man-stealing to be punished with death. *Man-stealing.*

24 False witnesse bearing to be punished with death. *False witnesse.*

CHAP. VIII.

Of other Crimes lesse hainous such as are to be punished with some Corporall punishment or Fine.

1 FIrst rash and prophane swearing and cursing to be punished.

1 First, with losse of honour, or office, if he be Magistrate, or Officer: meet it is, their name should be dishonoured who dishonour Gods name.

2 With losse of freedome.

3 With disability to give Testimony.

4 With corporall punishment either by stripes, or by branding him with a hot iron, or boring through the tongue, who hath bored and pierced Gods name.

2 Drunkennesse, as transforming Gods Image into a beast, is to
Pro. 26. 3. be punished with the punishment of beasts: A whip for the horse, and a rod for the fooles backe.

3 Forcing of a maid or a rape is not to bee punished with death by Gods Law, but

1 First, with Fine or penalty to the father of the maid.

Deut. 22. 9. 2 With marriage of the maide defiled, if thee and her father consent.

3 With corporall punishment of stripes for his wrong, as a reall slander: And it is worse to make a whore, than to say one is a whore.

Ex. 22. 16. 4 Fornication to be punished.

1 First, with marriage of the maide, or giving her a sufficient Dowrie.

2 Secondly, with stripes though fewer, from the equity of the former Cause.

5 Maiming or wounding of a freeman, whether free Burgesse, or free Inhabitant, to be punished with a Fine; to pay

Ex. 21. 18, 19. First, for his cure.

Secondly, for his losse,

Lev. 24. 19, 20. And with losse of member for member, or some valuable recompence.

Ex. 21. 26, 27. But if it be but the maiming or wounding of a servant, the servis to go forth free from such a service.

6 If

6 If a man ſteale a beaſt, if it be found in his hand, he ſhall make reſtitution two for one; if it be kild & ſould, reſtitution is to be made, of five Oxen for one: If the Theefe be not able to make reſtitution, then he to be ſould by the Magiſtrate for a ſlave, till by his labour he may make due reſtitution. Ex. 22.4, & 1.22.3.

7 If a Theefe bee found breaking a houſe by night, if he be ſlaine, his ſmiter is guiltleſſe, but in the day time, the Theefe is to make full reſtitution, as before, or if he be not able, then to be ſould as before. Ex. 22.2,3

8 Slanders are to be puniſhed,

Firſt, with a publike acknowledgment as the ſlander was publike.

Secondly, by mulcts or Fine of Money, when the ſlander bringeth damage.

Thirdly, by ſtripes if the ſlander be groſſe, or odious, againſt ſuch perſons whom a man ought to honour and cheriſh: whether they be his Superiours, or in ſome degrees of equality with himſelfe and his wife.

Chap. IX.

Of the triall of Cauſes, whether Civill or Criminall, and the execution of Sentence.

1 IN the tryall of all Cauſes, no judgement ſhall paſſe, but either upon confeſſion of the party, or upon the Teſtimony of two witneſſes. Deu. 19.10 17.6.

2 Triall by judges ſhall not be denied, where either the delinquent requireth it in cauſes Criminall, or the Plaintife or Defendant in Civill cauſes, partly to prevent ſuſpition of partiality, of any Magiſtrates in the Court.

3 The Iurours are not to be choſen by any Magiſtrates, or Officers, but by the free Burgeſſes of each Town, as can give beſt light, to the Cauſes depending in Court, and who are leaſt obnoxious to ſuſpition of partiality: And the Iurours then choſen, to be nominated to the Court, and to attend the ſervice of the Court.

4 The ſentence of judgement given upon Criminall cauſes, and perſons ſhall be executed in the preſence of the Magiſtrates, or ſome of them at leaſt.

No

5 No free-man whether free-Burgeſſe, or free-Inhabitant to be impriſoned, but either upon conviction or at leaſt probable ſuſpition, or ſome crime formerly mentioned, and the cauſe of his impriſonment, be declared and tried at the next Court following, at the furtheſt.

6 Stripes are not to be inflicted, but when the crimes of the offendour are accompanied with childiſh or brutiſh folly, or with lewd filthineſſe, or with ſtubborne inſolency, or with bruitiſh cruelty, or with idle vagrancy: But when ſtripes are due, not above 40 are to be inflicted.

CHAP. X.

Of cauſes Criminall between our People and Forraine Nations.

Mat. 7 12. 1 IN caſe any of our people ſhould do wrong to any of another Nation, upon complaint made to the Governour or ſome other of the Counſell or Aſſiſtants, the fact is dilligently to be inquired into, and being found to be true, reſtitution is to be made of the goods of offendors, as the caſe ſhall require, according to the quality of the crime.

Deuter. 20 10,11. 2 Sam. 10. 18,19. 2 In caſe the people of another Nation have done any important wrong, to any of ours, right is firſt to be demanded of the Governor of that people, and Iuſtice upon the malefactors, which if it bee granted and performed, then no breach of peace to follow.

3 If right and Iuſtice be denied, and it will not ſtand with the honour of God and ſafety of our Nation, that the wrong be paſſed over, then war is to be undertaken and denounced.

Deut. 20. 2,3,4. 4 Some Miniſter is to be ſent forth to go along with the Army for their inſtruction and incouragement.

Deut. 20. 5,6,7,8. & 24,5. 5 Men betrothed and not married, or newly married, or ſuch as have newly built or planted, and not received the fruits of their Labours, and ſuch as are fainthearted men, are not to be preſſed or forc'd againſt their wils to go forth to wars.

6 Captaines are to be choſen by the Officers.

Deut. 23: 9.14. 7 All wickedneſſe is to bee removed out of the Campe by ſevere diſcipline.

2 Chro. 25 7.8. 8 And in war from men of a corrupt or falſe Religion, is not to be accepted, much leſſe ſought for.

9 Women

9 Women, especially such as have not lyen by man, little children and [illegible] to be spared and reserved for spoyle. Deu.20.14

10 Fruit Trees, whilst they may bee of use for meat to our owne Souldiers, are not to be cut down or destroyed, and consequently no Corne. Deut.20. 19.20.

11 The spoyles got by warre are to be divided into two pars, between the Souldiers and the Common-wealth that sent them forth. Num.31. 21.

12 A Tribute from both is to be levyed to the Lord, and given to the Treasury of the Church, a fift part out of the Common-wealth's part, and a 500 part out of the Souldiers part. Num.31. 18.&47.

13 If all the Souldiers return again in peace, not one lacking, it is acceptable to the Lord, if they offer over and above the former Tribute, a voluntary oblation unto the Treasury of the Church for a memoriall of the Redemption of their lives, by the especiall providence and Salvation of the Lord of Hoasts.

The Lord is our Iudge,
The Lord is our Law-giver, Isay.33.22.
The Lord is our King, He will save us.

C

FINIS.

The Table of the Chapters.

CHAP. I.

Of Magistrates. Page 1

CHAP. II.

Of the free Burgesses and free Inhabitants. 2

CHAP. III.

Of the protection and provision of the Countrey. 5

CHAP. IV.

Of the right of Inheritance. 6

CHAP. V.

Of Commerce. 8

CHAP. VI.

Of Trespasses. 9

CHAP.

CHAP. VII.

Of Crimes. 10

CHAP. VIII.

Of other Crimes leſſe hainous ſuch as are to be puniſhed with ſome Corporall puniſhment or Fine. 12

CHAP. IX.

Of the triall of Cauſes, whether Civill or Criminall, and the execution of Sentence. 13

CHAP. X.

Of the Cauſes Criminall betweene our People and Forraine Nations. 14

FINIS.